

## REMARKS

This paper is presented in response to the Office Action. By this paper, claims 1-6, 9, 10 and 21-33 are amended. Claims 11-20 were cancelled in previous papers. As such, claims 1-10 and 21-33 are now pending.<sup>1</sup>

Reconsideration of the application is respectfully requested in view of the aforementioned amendments and the following remarks. For the convenience and reference of the Examiner, Applicants' remarks are presented in the order in which the corresponding issues were raised in the Office Action.

### **I. General Considerations**

Applicants note that the remarks and amendments presented herein have been made merely to clarify the claimed embodiments from elements purported by the Examiner to be taught by the cited references. Such remarks, or a lack of remarks, and amendments are not intended to constitute, and should not be construed as, an acquiescence, on the part of the Applicants: as to the purported teachings or prior art status of the cited references; as to the characterization of the cited references advanced by the Examiner; or as to any other assertions, allegations or characterizations made by the Examiner at any time in this case. Applicants reserve the right to challenge the purported teaching and prior art status of the cited references at any appropriate time.

In addition, the remarks herein do not constitute, nor are they intended to be, an exhaustive enumeration of the distinctions between any cited references and the claimed invention. Rather, the distinctions identified and discussed herein are presented solely by way of example. Consistent with the foregoing, the discussion herein is not intended, and should not be construed, to prejudice or foreclose contemporaneous or future consideration, by the Applicants, of additional or alternative distinctions between the claims of the present application and any references cited by the Examiner, and/or the merits of additional or alternative arguments.

### **II. Rejection of Claims 1-10 under 35 U.S.C. § 102**

Applicants respectfully note that a claim is anticipated under 35 U.S.C. § 102(a), (b), or (e) only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. Further, the identical invention must be shown in as complete detail as is contained in the claim. Finally, the elements must be arranged as required by the claim. *MPEP § 2131*.

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<sup>1</sup> The Office Action Summary mistakenly identifies only claims 1-10 as being pending at the time of the current Office Action. However, as identified on the USPTO PAIR system, claims 21-33 were previously added in the prior response received by the USPTO on August 16, 2006. Thus, claims 21-33 were also pending at the time of the current Office Action.

The Examiner has rejected claims 1-10 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,181,214 to Berger et al. (“*Berger*”). Applicants disagree but submit that in light of the discussion set forth below, the rejection is moot and should be withdrawn.

By this paper, Applicants have amended independent claim 1 to recite in part “...a magnetic MEMS heat sink device configured for thermal communication with a heat-generating component by way of a heat transfer path, the magnetic MEMS heat sink device including a heat sink having a volume; a temperature sensor responsive to input from the magnetic MEMS heat sink device; and control circuitry in communication with the temperature sensor and with the magnetic MEMS heat sink device, the control circuitry being responsive to input from the temperature sensor, and the heat sink volume and/or a heat transfer path geometry being variable in accordance with an output of the control circuitry.” Additionally, Applicant has amended independent claim 6 to recite in part “...detecting a temperature of a heat-generating component; comparing the detected temperature against a predetermined temperature set point; and modifying, if necessary, a heat transfer rate associated with the heat-generating component by performing at least one of the following: changing a volume of a heat sink device that is in thermal communication with the heat-generating component; and, changing a geometry of a heat transfer path associated with the heat-generating component.” Support for these amendments to claims 1 and 6 can be found, for example, at least at Figures 1 and 2, and the corresponding discussion, including paragraphs [015] and [016].

In contrast, the Examiner has not established that *Berger*, either alone or in combination with any other reference, teaches or suggests the aforementioned limitations in combination with the other limitations of claims 1 and 6.

In light of the foregoing, Applicants respectfully submit that the Examiner has not established that *Berger* anticipates either of claims 1 and 6, at least because the Examiner has not established that each and every element as set forth in claims 1 and 6 is found in *Berger*, because the Examiner has not established that the identical invention is shown in *Berger* in as complete detail as is contained in amended claims 1 and 6, and because the Examiner has not shown that *Berger* discloses the elements of claims 1 and 6 arranged as required by those claims. Applicants thus respectfully submit that the rejection of claims 1 and 6, as well as the rejection of corresponding dependent claims 2-5 and 7-10, should be withdrawn.

### **III. Claims 21-33**

The Examiner has not explicitly rejected or allowed claims 21-33 in the Office Action. Nevertheless, claims 21-33 depend from claim 1 and thus incorporate the limitations thereof. As such, Applicants submit that claims 21-33 are allowable for at least the same reasons as claim 1.

**CONCLUSION**

In view of the remarks submitted herein, Applicants respectfully submit that each of the pending claims 1-10 and 21-33 is in condition for allowance. Therefore, reconsideration of the rejections is requested and allowance of those claims is respectfully solicited. In the event that the Examiner finds any remaining impediment to a prompt allowance of this application that could be clarified in a telephonic interview, the Examiner is respectfully requested to initiate the same with the undersigned attorney.

Dated this 3<sup>rd</sup> day of April 2007.

Respectfully submitted,  
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